

Thomas A. Vogeles, Esq. (SBN 254557)
 SCHWARTZ, O'CONNOR & VOGEL, LLP
 200 Clock Tower Pl., Suite E103
 Carmel, California 93922
 Telephone: (831) 625-6255
 Facsimile: (831) 886-1684
 Email: tvogele@sovlaw.com

Attorney for Plaintiffs JOHN L. SUSOTT; the
 Estate of Kathryn Susott; The Kathryn C. Susott
 Living Trust under Agreement dated May 2, 1997;
 The John L. Susott Exempt Marital Trust under
 Agreement dated May 27, 1985; and the John L.
 Susott Non-Exempt Marital Trust under
 Agreement dated May 27, 1985

**UNITED STATES DISTRICT COURT FOR THE
 CENTRAL DISTRICT OF CALIFORNIA
 SOUTHERN DIVISION**

JOHN L. SUSOTT; the Estate of Kathryn Susott; The Kathryn C. Susott Living Trust under Agreement dated May 2, 1997; The John L. Susott Exempt Marital Trust under Agreement dated May 27, 1985; and the John L. Susott Non-Exempt Marital Trust under Agreement dated May 27, 1985)	CASE NO.: C12-00581 HRL
)	
)	
)	Magistrate Judge: Hon. Howard R. Lloyd
)	
)	
)	EXHIBITS 1 AND 2 TO DECLARATION OF
)	THOMAS A. VOGEL IN SUPPORT OF
)	MOTION TO REMAND
Plaintiffs)	
vs.)	
)	
)	
DANIEL C. SUSOTT, an individual; and DOES 1 through 100, inclusive)	Action Filed: February 6, 2012
)	Hearing Date: April 3, 2012
)	Time: 10:00 a.m.
Defendants.)	
)	
)	

EXHIBIT 1

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): THOMAS A. VOGELE, ESQ. (SBN 254557) GIMINO VOGELE ASSOCIATES, LLP 245 Fisher Avenue., Suite C-1 Costa Mesa, California 92626 TELEPHONE NO.: (714) 641-1232 FAX NO. (Optional): (714) 438-0620 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff	FOR COURT USE ONLY <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div> <div style="text-align: center; font-weight: bold;">MAR 06 2012</div> CONNIE MAZZEI CLERK OF THE SUPERIOR COURT DEPUTY CARMEN B. OROZCO
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Monterey STREET ADDRESS: 1200 Aguajito Road MAILING ADDRESS: 1200 Aguajito Road CITY AND ZIP CODE: Monterey, CA 93940 BRANCH NAME:	
PLAINTIFF/PETITIONER: John L. Susott, et al. DEFENDANT/RESPONDENT: Daniel C. Susott, et al.	CASE NUMBER: <div style="text-align: center; font-weight: bold;">M115348</div>
PROOF OF SERVICE OF SUMMONS	Ref. No. or File No.: <div style="text-align: center;">31004859 lxc</div>

FILED BY FACSIMILE

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. ☒ Summons
 - b. ☒ Complaint
 - c. ☐ Alternative Dispute Resolution (ADR) package
 - d. ☒ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ Cross-Complaint
 - f. ☐ Other (specify documents):
3. a. Party served (specify name of party as shown on documents served):
 Daniel C. Susott, an individual
 - b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
4. Address where the party was served:
 3645 Woodlawn Terrace, Honolulu, HI 96822
5. I served the party (check proper box)
 - a. ☐ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): (2) at (time):
 - b. ☒ by substituted service. On (date): 12/20/2011 at (time): 9:30 AM I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 Anto Sri, Co-occupant
 - (1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☒ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☒ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or ☒ a declaration of mailing is attached.
 - (5) ☒ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: John L. Susott, et al.	CASE NUMBER:
DEFENDANT/RESPONDENT: Daniel C. Susott, et al.	M115348

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in Item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ by other means (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☒ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☐ On behalf of (specify):

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: James Ormand
- b. Address: 404 W. 4th Street, Suite G., Santa Ana, CA 92701
- c. Telephone number: (714) 543-5100
- d. The fee for service was: \$ 225.00
- e. I am:

- (1) ☒ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:


8. ☐ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: January 25, 2012

James Ormand
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): THOMAS A. VOGEL, ESQ. (SBN 254557) GIMINO VOGEL ASSOCIATES, LLP 245 FISCHER AVENUE C-1 COSTA MESA, CA 92626		TELEPHONE NO.: (714) 641-1232		FOR COURT USE ONLY	
ATTORNEY FOR (Name): PLAINTIFFS		Ref. No. or File No. 31004859 lxc			
Insert name of court and name of judicial branch court, if any: SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF MONTEREY					
SHORT TITLE CASE: JOHN L. SUSOTT, ET AL. V. DANIEL C. SUSOTT, ET AL.					
DECLARATION OF DUE DILIGENCE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: M115348	

At the time of service attempt(s), I was at least 18 years old & not a party to the action

I attempted to serve the following documents: **SUMMONS; COMPLAINT; CIVIL CASE COVER SHEET.**

Name of party served: DANIEL S. SUSOTT, AN INDIVIDUAL

DECEMBER 12, 2011 AT 7:20 P.M.
(BUSINESS) 3645 WOODLAWN TERRACE, HONOLULU, HI 96822
I was unable to personally serve the documents listed above. Subject not home.

DECEMBER 13, 2011 AT 7:00 A.M.
(BUSINESS) 3645 WOODLAWN TERRACE, HONOLULU, HI 96822
I was unable to personally serve the documents listed above. No answer at the door

DECEMBER 14, 2011 AT 9:45 A.M.
(BUSINESS) 3645 WOODLAWN TERRACE, HONOLULU, HI 96822
I was unable to personally serve the documents listed above. No answer at the door.

DECEMBER 14, 2011 AT 7:49 P.M.
(BUSINESS) 3645 WOODLAWN TERRACE, HONOLULU, HI 96822
I was unable to personally serve the documents listed above. No answer at the door.

DECEMBER 15, 2011 AT 6:30 P.M.
(BUSINESS) 3645 WOODLAWN TERRACE, HONOLULU, HI 96822
I was unable to personally serve the documents listed above. No answer at the door.

DECEMBER 16, 2011 AT 4:30 P.M.
(BUSINESS) 3645 WOODLAWN TERRACE, HONOLULU, HI 96822
I was unable to personally serve the documents listed above. No answer at the door.

DECEMBER 20, 2011 AT 9:30 A.M.
(BUSINESS) 3645 WOODLAWN TERRACE, HONOLULU, HI 96822
I effectuated service on Daniel S. Susott, by leaving documents with Anto Sri, Co-occupant.

Process Server: James Ormand
LEGAL SOLUTION ATTORNEY SERVICE
404 W. 4TH STREET, SUITE G1
SANTA ANA, CA 92701
(714) 543-5100

☐ Registered California
Process Server
Registration Number:
County:
Fee for service: \$225.00

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on: December 23, 2011

Signature: 

Proof of Service complies with CRC 982(a)(23) as required by CCP 417.10

DECLARATION OF DUE DILIGENCE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): THOMAS A. VOGELE, ESQ. (SBN 254557) GIMINO VOGELE ASSOCIATES, LLP 245 FISCHER AVENUE, SUITE C-1 COSTA MESA, CA 92626		TELEPHONE NO.: (714) 641-1232		FOR COURT USE ONLY	
ATTORNEY FOR (Name): PLAINTIFF		Ref: No. or File No. 31004859 lxc			
Insert name of court and name of judicial branch court, if any: SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF MONTEREY					
SHORT TITLE CASE: JOHN L. SUSOTT, ET AL. V. DANIEL C. SUSOTT, ET AL.					
PROOF OF MAILING		HEARING DATE:		TIME:	
				DEPT./DIV.:	
				CASE NUMBER: M115348	

At the time of mailing, I was at least 18 years old and not a party to the action

I mailed the following documents: SUMMONS; COMPLAINT; CIVIL CASE COVER SHEET.

Addressed as follows:

DANIEL C. SUSOTT
3645 WOODLAWN TERRACE
HONOLULU, HI 96822

☒ Residence ☐ Business ☐ Other

Date: SEPTEMBER 202:50 P.M., 2011

Place: SANTA ANA, CALIFORNIA

Type of mailing: FIRST CLASS

Person Mailing: LESLIE CUBA
LEGAL SOLUTION ATTORNEY SERVICE
404 W. 4TH STREET, SUITE G
SANTA ANA, CA 92701
(714) 543-5100

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on: SEPTEMBER 22, 2011

Signature: 

PROOF OF MAILING

EXHIBIT 2

1 JOHN PRESTON, ESQ. (SBN 87237)
 2 1060 Clarendon Crescent
 3 Oakland, CA 94610
 Tel: 510-763-9131
 Fax: 510-763-0255

4 Attorneys for Defendant Daniel Susott

5 UNITED STATES DISTRICT COURT
 6 NORTHERN DISTRICT OF CALIFORNIA
 7 SAN JOSE BRANCH

9 JOHN L. SUSOTT,

10 Plaintiff;

11 vs.

12 DANIEL SUSOTT et al.,

13 Defendants.

CASE NO.

C12-00581
 NOTICE OF REMOVAL OF
 ACTION UNDER 28 USC § 1441(b)
 (DIVERSITY)

JURY TRIAL DEMANDED

15 TO THE CLERK OF THE ABOVE-TITLED COURT:

16 PLEASE TAKE NOTICE that defendant Daniel Susott hereby removes to this Court the
 17 state action described below:

18 1. On December 9, 2011, an action was commenced in the Superior Court of the
 19 State of California in the County of Monterey titled John Auld-Susott, plaintiff v. Daniel Susott
 20 and Does 1 through 100, defendants as case number M115348. A true copy of the Complaint
 21 filed in that action is attached as Exhibit A.

22 2. It is disputed as to the first date defendant Daniel Susott received a copy of the
 23 Complaint. Plaintiff contends that Daniel Susott was personally served in Hawaii on December
 24 20, 2011. However, since Daniel Susott was not within several thousand miles of the state of
 25
 26

E-filing

ORIGINAL
FILED

FEB - 6 2012

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

ADR

HRL

1 Hawaii for the entire month of December, this is impossible. Defendant Daniel Susott does not
2 have a copy of the summons.

3 3. This action is one over which this Court has original jurisdiction under 28 USC
4 §1332 and is one that may be removed to this Court by defendant pursuant to 28 USC § 1441(b)
5 in that it is a civil action between citizens of different states and the amount in controversy
6 exceeds \$75,000, exclusive of interest and costs because plaintiff alleges as one of the items of
7 damages that Daniel used undue influence in order to receive a gift of \$771,939.

8 4. There is complete diversity of citizenship in that plaintiff John Susott is domiciled
9 in Carmel, California and the domicile of defendant Daniel Susott, the only named defendant and
10 the only defendant as to which service of the summons and complaint has been attempted, is
11 Hawaii.
12

13
14 Date: ^{FEB 6} January , 2012

By:


John Preston
Attorney for defendant Daniel Susott

EXHIBIT A

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Thomas A. Voegel, Esq. (SBN 254557) Timothy M. Kowal, Esq. (SBN 254709) GIMINO VOGEL ASSOCIATES, LLP 245 Fischer Avenue, Suite C-1, Costa Mesa, California 92626 TELEPHONE NO.: (714) 641-1232 FAX NO.: (714) 438-0620 ATTORNEY FOR (Name): Plaintiff JOHN L. SUSOTT, et al.		FOR COURT USE ONLY <h1 style="margin: 0;">FILED</h1> DEC 09 2011 CONNIE MAZZEI CLERK OF THE SUPERIOR COURT DEPUTY Lisa Dalia	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY STREET ADDRESS: 1200 Aguajito Road, Monterey, CA 93940 (831) 647-580 MAILING ADDRESS: Monterey County Courts, 1200 Aguajito Road CITY AND ZIP CODE: Monterey, 93940 BRANCH NAME: Monterey Courthouse		CASE NAME: John Susott, et al. v. Daniel Susott, et al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		CASE NUMBER: M115348	
		JUDGE: DEPT:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

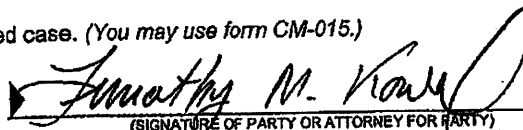
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input checked="" type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input checked="" type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	--	--

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): Six (6)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 9, 2011

Timothy M. Kowal

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

FILED BY FACSIMILE

SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

Daniel C. Susott, an individual; and Does 1 through 100, inclusive

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

Additional Parties Attachment for is attached

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)**FILED**

DEC 09 2011

CONNIE MAZZEI
CLERK OF THE SUPERIOR COURT
DEPUTY**Lisa Dalia**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form. If you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Monterey County Superior Court
1200 Aguajito Road
Monterey, CA 93940

CASE NUMBER:
(Número del Caso)**M115348**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Timothy M. Kowal, Esq. 245 Fischer Avenue, Suite C-1, Santa Ana, CA 92626

DEC 09 2011
DATE: ~~November 15, 2011~~
(Fecha)

CONNIE MAZZEIClerk, by
(Secretario)**Lisa Dalia**Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

[SEAL]

Page 1 of 1

SUM-200(A)

SHORT TITLE: John L. Susott et al v. Daniel C. Susott	CASE NUMBER:
--	--------------

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
 → If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☒ Plaintiff ☐ Defendant ☐ Cross-Complainant ☐ Cross-Defendant

JOHN L. SUSOTT, individually and as executor of the Estate of Kathryn Susott, trustee of The Kathryn C. Susott Living Trust under Agreement dated May 2, 1997, trustee of the John L. Susott Exempt Marital Trust under Agreement dated May 27, 1985, and trustee of the John L. Susott Non-Exempt Marital Trust under Agreement dated May 27, 1985

Page 1 of 1

Page 1 of 1

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Thomas A. Voegel, Esq. (SBN 254557) Timothy M. Kowal, Esq. (SBN 254709) GIMINO VOGELB ASSOCIATES, LLP 245 Fischer Avenue, Suite C-1, Costa Mesa, California 92626 TELEPHONE NO.: (714) 641-1232 FAX NO.: (714) 438-0620 ATTORNEY FOR (Name): Plaintiff JOHN L. SUSOTT, et al.		FOR COURT USE ONLY <h1 style="margin: 0;">FILED</h1> DEC 09 2011 CONNIE MAZZEI CLERK OF THE SUPERIOR COURT DEPUTY Lisa Dahia	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY STREET ADDRESS: 1200 Aguajito Road, Monterey, CA 93940 (831) 647-580 MAILING ADDRESS: Monterey County Courts, 1200 Aguajito Road CITY AND ZIP CODE: Monterey, 93940 BRANCH NAME: Monterey Courthouse		CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold;">M115348</div>	
CASE NAME: John Susott, et al. v. Daniel Susott, et al.		JUDGE: DEPT:	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input checked="" type="checkbox"/> Other PIPD/WD (23) Non-PIPD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input checked="" type="checkbox"/> Professional negligence (25) <input checked="" type="checkbox"/> Other non-PIPD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (28) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): Six (6)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 9, 2011

Timothy M. Kowal

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

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CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (not asbestos or toxic/environmental) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (not medical or legal)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (not unlawful detainer or wrongful eviction)
Contract/Warranty Breach—Seller
Plaintiff (not fraud or negligence)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (not provisionally complex) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (non-domestic relations)
Sister State Judgment
Administrative Agency Award (not unpaid taxes)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (not specified above) (42)
Declaratory Relief Only
Injunctive Relief Only (non-harassment)
Mechanics Lien
Other Commercial Complaint Case (non-tort/non-complex)
Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (not specified above) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

FILED**DEC 09 2011**

CONNIE MAZZEI
CLERK OF THE SUPERIOR COURT
DEPUTY

Lisa Dafia

1 Thomas A. Vogeles, Esq. (SBN 254557)
2 Timothy M. Kowal, Esq. (SBN 254709)
3 GIMINO VOGEL ASSOCIATES, LLP
4 245 Fischer Avenue, Suite C-1
5 Costa Mesa, California 92626
6 Telephone: (714) 641-1232
7 Facsimile: (714) 438-0620
8 Email: tvogele@giminovogele.com

9 Attorneys for Plaintiff JOHN L. SUSOTT; the
10 Estate of Kathryn Susott; The Kathryn C. Susott
11 Living Trust under Agreement dated May 2, 1997;
12 The John L. Susott Exempt Marital Trust under
13 Agreement dated May 27, 1985; and The John L.
14 Susott Non-Exempt Marital Trust under
15 Agreement dated May 27, 1985

CASE MANAGEMENT CONFERENCE

DATE: 4-13-12
TIME: 9:00 AM
PLACE: Courtroom 15, 2nd Floor
1200 Agualito Rd. Monterey CA 93940

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY

12 JOHN L. SUSOTT, individually and as
13 executor of the Estate of Kathryn Susott,
14 trustee of The Kathryn C. Susott Living
15 Trust under Agreement dated May 2, 1997,
16 trustee of the John L. Susott Exempt Marital
17 Trust under Agreement dated May 27, 1985,
18 and trustee of the John L. Susott Non-
19 Exempt Marital Trust under Agreement
20 dated May 27, 1985,

21 Plaintiffs,

22 vs.

23 DANIEL C. SUSOTT, an individual; and
24 DOES 1 through 100, inclusive,

25 Defendants.

CASE NO.:

M115348

COMPLAINT FOR:

1. ELDER FINANCIAL ABUSE
[Welf. & Inst. Code, §§ 15610.07,
subd. (a), 15610.30];
2. CONVERSION
3. CONSTRUCTIVE TRUST
4. NEGLECT
[Welf. & Inst. Code, § 15610.57]
5. ELDER PHYSICAL ABUSE
[Welf. & Ins. Code, § 15610.63]
6. WRONGFUL DEATH

FILED BY FACSIMILE

26 Plaintiffs John L. Susott, the Estate of Kathryn Susott, The Kathryn C. Susott Living Trust
27 under Agreement dated May 2, 1997, The John L. Susott Exempt Marital Trust under Agreement
28 dated May 27, 1985, and The John L. Susott Non-Exempt Marital Trust under Agreement dated
May 27, 1985, complain and allege as follows:

GENERAL ALLEGATIONS

1
2 1. Decedent Kathryn Susott ("Kay") was born on May 16, 1919. She bore two
3 natural sons, John and Daniel, ages 61 and 60, respectively. John L. Susott was duly appointed as
4 representative of Kay's estate on or about October 9, 2009, and is the duly appointed trustee of
5 The Kathryn C. Susott Living Trust under Agreement dated May 2, 1997 ("Kay's Trust"), trustee
6 of the John L. Susott Exempt Marital Trust under Agreement dated May 27, 1985 ("John's
7 Trust"), and trustee of the John L. Susott Non-Exempt Marital Trust under Agreement dated May
8 27, 1985 ("Marital Trust"). John L. Susott, individually and in each of his representative
9 capacities, is referred to herein as "Plaintiff."

10 2. Plaintiff is a resident of Monterey County, California.

11 3. At all times relevant to the allegations herein, defendant Daniel C. Susott
12 ("Daniel") was a resident of Monterey County, California. Plaintiff is informed and believes that
13 Daniel currently maintains domiciles in both Monterey County and in Hawaii, among other
14 places.

15 4. The true names and capacities, whether individual, corporate, associate, or
16 otherwise, of the defendants named herein as Does 1 through 100, inclusive, are unknown to
17 Plaintiff, who therefore sues these defendants by such fictitious names. By way of example only,
18 Plaintiff is informed and believes, and thereon alleges, that at all relevant times Daniel was and is
19 the sole and/or dominating owner or shareholder in a purported charity, the name and capacity of
20 which Plaintiff is unaware at this time ("Doe 1"). Pursuant to Code of Civil Procedure section
21 474, Plaintiff will amend this complaint, seeking leave of the Court as appropriate, to show the
22 true names and capacities of Doe 1 and such other "Doe" defendants when they have been
23 ascertained. Daniel, Doe 1, and the other "Doe" defendants are sometimes collectively referred to
24 herein as "Defendants."

JURISDICTION AND VENUE

25
26 5. This Court has jurisdiction in this matter as alleged in this complaint, in part,
27 pursuant to section 410.10 of the Code of Civil Procedure and section 10 of article VI of the
28 California Constitution. Further, this Court has jurisdiction over the Defendants because they are

1 domiciled in the state of California and/or purposely availed themselves of the laws and benefits
2 of this state in performing the acts alleged herein. Plaintiff seeks damages well in excess of the
3 statutory minimum of this Court.

4 6. Venue in Monterey County is proper under section 395 of the Code of Civil
5 Procedure as it is the county where Daniel maintains a domicile as of the commencement of this
6 action, and/or it is the county where Defendants or some of them conducted the acts alleged
7 herein.

8 FACTUAL ALLEGATIONS

9 7. In or about 1995, Kay moved to Carmel, California to be closer to members of her
10 immediate family. Prior to that time, Kay lived in Hawaii. Plaintiff is informed and believes, and
11 thereon alleges, that around the time Kay moved to Carmel, Kay's estate planning attorneys
12 created a qualified personal residence trust ("QPRT") in order to purchase and hold title to a
13 residence at 8022 River Place ("River Place"). Plaintiff is informed and believes, and thereon
14 alleges, that at all times while Kay resided at River Place, she paid the QPRT monthly rent of
15 approximately \$3,500, as is standard estate planning practice. From about 2005, Kay also paid
16 for all utilities associated with River Place in addition to rent and other living and medical
17 expenses.

18 8. Also in or about 1995, shortly after Kay purchased and moved into her River Place
19 home, Kay's younger son, Daniel, moved in and established his own permanent residence at
20 River Place. Plaintiff is informed and believes, and thereon alleges, that Daniel continued to
21 reside at River Place as his primary domicile until approximately January 31, 2009. Around that
22 same time on or about February 1, 2009, Kay was relocated to an assisted living facility. Kay
23 died shortly thereafter on February 15, 2009. Plaintiff is informed and believes, and thereon
24 alleges, that during the time Daniel resided at his mother's River Place home, Daniel occupied a
25 private room and freely made use of common areas and utilities. Plaintiff further is informed and
26 believes, and thereon alleges, that during the time Daniel resided at River Place, Daniel never
27 contributed or offered to contribute to any rent or living expenses, and that on various occasions
28 while Daniel resided with Kay from 1998 to 2009, Daniel expressed he would take care of Kay.

1 9. Plaintiff is informed and believes, and thereon alleges, that Daniel physically
2 abused Kay during the period between 1995 and 2009. On various occasions, Kay was heard to
3 complain that Daniel was giving her daily enemas. Plaintiff is informed and believes, and thereon
4 alleges, that Daniel administered these enemas without any reasonable medical justification. In or
5 around April 2005, Daniel was observed violently yanking Kay out of her bed by her frail arm
6 when Daniel became impatient that she was not getting up fast enough. Daniel also frequently
7 insulted and yelled at Kay. Moreover, although Daniel kept a private room at Kay's River Place
8 home, Daniel was frequently observed sleeping with his elderly mother.

9 10. Plaintiff further is informed and believes, and thereon alleges, that Daniel's
10 physical and/or sexual abuse of Kay is consistent with Daniel's pattern and practice of violence
11 and sexual abuse of his other family members, including, by way of example only:

- 12 a. During a Christmas Eve celebration in Carmel, California at Plaintiff's home,
13 Daniel was witnessed physically assaulting Plaintiff's nine-year-old daughter –
14 Daniel's own niece – suffocating her for several seconds by forcibly shoving her
15 face into the carpet.
- 16 b. During a family vacation in Guatemala in or about 2006, Daniel sexually groped
17 the genitals of a 16-year-old male friend of Daniel's nephew. The latter occurred
18 after Daniel gave alcohol to his 16-year-old nephew and friend while they were
19 riding in an automobile. These incidents were reported to the Monterey County
20 Sheriff in or about 2005 and 2011, respectively. Plaintiff is informed and believes,
21 and thereon alleges, that both incidents occurred while Daniel was dressed in
22 "drag."
- 23 c. During the same family vacation in Guatemala in or about 2006, Daniel also
24 sexually groped his nephew, then approximately 9 years old. The victim first
25 reported the abuse to his parents several years later in 2001, and his parents in turn
26 submitted a report to the Monterey County Sheriff shortly thereafter.
- 27 d. While riding in a car driven by Daniel following the 2006 Guatemala trip, Plaintiff
28 confronted Daniel concerning his flamboyant, over-sexualized and aggressive

1 behavior. Daniel became visibly angry and stopped the car with such force that
2 the car stalled and Plaintiff and his wife, riding in the back seat, were thrown up
3 against the back of the front seats.

4 e. In a June 3, 2011 voicemail to the family's long-time attorney, Bill Soskin, Daniel
5 stated that Plaintiff's wife, Nancy Susott, was someone "that I would love to, like,
6 execute, and I still might."

7 11. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
8 Daniel was a physician specializing in urgent care. However, Plaintiff is informed and believes,
9 and thereon alleges, that during the relevant time period, Daniel relied on unconventional and
10 unethical practices to make money. By way of example only, Plaintiff is informed and believes,
11 and thereon alleges, that:

12 a. In connection with his travel to and work at international disaster sites, Daniel had
13 access to large amounts of prescription medication which, if sold on the black
14 market in the U.S. and elsewhere, could return significant sums of money. At
15 various times, Plaintiff and others witnessed large suitcases of prescription
16 medications in Daniel's room at River Place. On this basis, Plaintiff is informed
17 and believes, and thereon alleges, that Daniel misappropriated these prescription
18 medications to himself from disaster relief sites or other sources for the purpose of
19 unlawful sale.

20 b. On at least one occasion, Daniel wrote a large number of prescriptions for
21 "medical marijuana." Plaintiff is informed and believes, and thereon alleges, that
22 during an International Cannabis and Hemp Expo in Daly City, California in or
23 around April 2010, Daniel wrote approximately 1,600 prescriptions for "medical
24 marijuana" for approximately \$100 each.

25 12. From approximately 2007 to 2009, Daniel was employed by or affiliated with
26 Doctors on Duty, a medical group based in Monterey, California.

27 13. Plaintiff is informed and believes, and thereon alleges, that in furtherance of
28 Daniel's pattern of unethical and presumably illegal medical practices, at all relevant times Daniel

1 owned and/or maintained refuges in various international countries, including in Antigua,
2 Guatemala; Quito, Ecuador; Tirtagangga, Bali; and Cambodia, among other places, in addition to
3 a home in Oahu, Hawaii.

4 14. Plaintiff is informed and believes, and thereon alleges, that over the approximately
5 14 years between 1995 to 2009, Daniel routinely used his private room at Kay's River Place
6 home for the purpose of, among other things, storing the large amounts of prescription medication
7 that Plaintiff is informed and believes and thereon alleges that Daniel transported in large
8 suitcases from disaster relief sites or other places in order to sell them for profit. Plaintiff further
9 is informed and believes, and thereon alleges, that over that same time period, Daniel routinely
10 permitted his friends to stay at Kay's River Place home for extended periods of time, to engage in
11 group sex acts, and to use illegal drugs. Plaintiff is informed and believes, and thereon alleges,
12 that some of Daniel's guests walked around nude in Kay's home in the presence of Kay and her
13 caregivers.

14 15. Plaintiff further is informed and believes, and thereon alleges, that Daniel moved
15 in with Kay for the further purpose of exploiting Kay's trust, affection, and ailing physical and
16 mental capacities to unduly influence Kay to make various gifts and disbursements to Daniel. By
17 way of example only, Plaintiff is informed and believes, and thereon alleges, that:

- 18 a. In or about 1998, Daniel used his position of care and trust to successfully urge
19 Kay to gift him \$771,939.
- 20 b. Daniel used his position of care and trust to successfully urge Kay to make various
21 "investments" by acquiring interests in international real estate, which Daniel
22 intended to use for his own benefit. By way of example only, Plaintiff is informed
23 and believes, and thereon alleges, that in or about 1994, Daniel prevailed upon
24 Kay to entrust Daniel with approximately \$200,000 purportedly to purchase
25 investment property in Cambodia. Plaintiff is informed and believes, and thereon
26 alleges, that Kay initially agreed to provide this sum as a "loan" but that, after the
27 investment took a loss, Daniel prevailed on Kay to re-designate it as an
28

1 “investment” without any new consideration. Plaintiff did not learn of these
2 transactions until in or about 2007 or 2008.

3 c. Between approximately 1994 and 2006, Daniel used his position of care and trust
4 to successfully urge Kay to make “donations” in the approximate amount of
5 \$362,210 to a putative charity that Daniel operates as his alter ego and for his own
6 benefit.

7 d. Daniel used his position of care and trust to successfully urge Kay to make various
8 “gifts” and “loans” to Daniel’s friends and colleagues, and then exerted undue
9 influence to cause Kay to later “forgive” those same “loans.” Plaintiff is informed
10 and believes, and thereon alleges, that the approximate total amount of these
11 “gifts” and “loans” made between approximately 1999 and 2008 is no less than
12 \$166,704.

13 e. Daniel frequently used Kay’s credit card for his personal use, including purchasing
14 airfare for recreational and other uses for himself and others. Plaintiff further is
15 informed and believes, and thereon alleges, that Daniel transported the large
16 suitcases of prescription medication described above using such airfare.

17 16. By way of example only, one such “loan” Daniel used his position of trust and
18 affection to unduly influence Kay to make and later “forgive” was to Lauryn Galindo in the
19 amount of \$10,000. Plaintiff is informed and believes, and thereon alleges, that Ms. Galindo is
20 Daniel’s one-time housekeeper who ran an operation for Daniel in Cambodia in the late 1970s
21 selling Cambodian babies and falsifying emigration papers. Plaintiff is further informed and
22 believes, and thereon alleges, that Ms. Galindo was later successfully prosecuted and imprisoned
23 in federal prison for these and other crimes. Plaintiff is further informed and believes, and
24 thereon alleges, that during the relevant time period, Ms. Galindo lived in a condo owned by
25 Daniel.

26 17. By way of further example, Plaintiff is informed and believes, and thereon alleges,
27 that another such “loan” Daniel used his position of trust and affection to unduly influence Kay to
28 make and later “forgive” during the time Daniel lived with Kay was to Daniel’s friend, Erick

1 Sosa, in the approximate amount of \$30,000. Plaintiff also is informed and believes, and thereon
2 alleges, that Daniel used his position of trust and affection to unduly influence Kay to make a
3 "loan" to Daniel of approximately \$60,000. Plaintiff also is informed and believes, and thereon
4 alleges, that Daniel never repaid this loan.

5 18. Also in or about 2002, Kay purchased a Volvo sedan for her personal
6 transportation. Kay also made all insurance and registration payments on the vehicle. Between
7 approximately 1995 and continuing after Kay's death in 2009, however, Daniel drove the car for
8 his own personal use and enjoyment, often depriving Kay of the use of the car for several days or
9 weeks when Daniel would take long trips and/or leave the car in an airport long-term parking lot.
10 In connection with Daniel's use of the car, Kay received multiple parking citations. Daniel also
11 used Kay's credit cards to pay for gasoline in connection with his use of the car. Kay routinely
12 was required to pay for necessary repairs and service due to Daniel's use of the car. Plaintiff is
13 informed and believes, and thereon alleges, that Daniel did not ask Kay's permission to use the
14 car.

15 19. In or about 2005, Kay was diagnosed with Alzheimer's-related dementia. After
16 this diagnosis, Kay retained and paid for three personal caregivers to provide her personal and
17 medical assistance, as well as to assist her with day-to-day household activities. However,
18 Plaintiff is informed and believes, and thereon alleges, that Daniel routinely ordered Kay's
19 caregivers to provide for his own needs, including making them cook his meals and clean his
20 room. Moreover, because of Daniel's frequent use of Kay's car, Kay's caregivers were required
21 to transport Kay in their personal cars. Plaintiff is informed and believes, and thereon alleges,
22 that Daniel's conduct impaired the caregivers' ability to provide Kay with the necessary medical
23 care and assistance she required.

24 20. Plaintiff is informed and believes, and thereon alleges, that routinely during the 11
25 years Daniel lived at Kay's home from 1998 to 2009 – and continuing after Kay was diagnosed
26 with Alzheimers'-related dementia – Daniel threw raucous, late-night at Kay's home. As he did
27 during the 2006 Guatemala trip when he sexually molested his 11-year-old nephew and another
28 16-year-old boy, Daniel dressed in "drag" at these parties, as did several of Daniel's guests.

1 Others paraded around Kay's home in the nude. Plaintiff is informed and believes, and thereon
2 alleges, that several of Daniel's guests at these parties engaged in sex acts in Kay's home.

3 Plaintiff also is informed and believes, and thereon alleges, that Daniel knew or should have
4 known that several of his guests abused illegal drugs during these "sex parties" in Kay's home.

5 21. Kay's caretakers frequently complained that Daniel's conduct and repeated orders
6 that Kay's caretakers carry out tasks for Daniel's benefit, as well as his frequent raucous parties at
7 Kay's house, made it difficult to provide appropriate care for Kay.

8 22. Over time, Kay's Alzheimer's-related dementia continued to worsen. In or around
9 March 2007, in cold, early morning weather, a Monterey County Deputy found a naked and
10 confused Kay wandering the neighborhood. Similarly, in or around 2006, a concerned neighbor
11 found Kay wandering on a golf course.

12 23. Daniel's conduct rendered Kay's home an unfit environment for her rest and care.
13 Around that time, Kay's caregivers threatened to quit because of Daniel's conduct. Accordingly,
14 in or about February 2009, Kay's family decided to move Kay to Sunrise Assisted Living Facility
15 ("Sunrise"). Plaintiff and other members of Kay's family intended Kay's move to Sunrise as a
16 temporary measure until Kay's River Place home could be made fit for Kay's peaceful rest and
17 care by removing Daniel from the premises. Daniel objected to this decision. Plaintiff further is
18 informed and believes, and thereon alleges, that Daniel told Kay to the effect that Plaintiff and
19 other members of her family were trying to get rid of her in order to take her River Place home
20 for themselves.

21 24. Plaintiff is informed and believes, and thereon alleges, that after Kay settled in at
22 Sunrise, Daniel continued his pattern of abuse by making frequent late night visits to Kay and
23 telling her that "nobody cares about you but me." Plaintiff further is informed and believes, and
24 thereon alleges, that Daniel repeatedly told Kay he would "rescue" her.

25 25. Plaintiff is informed and believes, and thereon alleges, that in or around January
26 2009, Daniel lost his position practicing medicine with Doctors on Duty for engaging in
27 inappropriate contact with patients and for stealing significant quantities of prescription
28

1 medications. Plaintiff is further informed and believes, and thereon alleges, that as a result,
2 Daniel was in need of money.

3 26. Plaintiff is informed and believes, and thereon alleges, that on one occasion Daniel
4 gained unauthorized access to Kay's quarters at Sunrise at approximately 3:30 a.m. for the
5 purpose of removing Kay's emerald ring from her hand. Plaintiff demanded the return of this
6 item, but Daniel refused. Plaintiff is informed and believes, and thereon alleges, that Daniel sold
7 Kay's ring and kept the proceeds for himself.

8 27. On or about February 12, 2009, Kay's family physician, Dr. Paul Tocchet,
9 examined Kay and determined her to be in good health considering her age of 89 years. Two
10 days later, however, Kay was found deceased in her quarters at Sunrise. Despite Sunrise's strict
11 policy against the presence of any unauthorized medications in patients' quarters, unauthorized
12 sleeping pills were found in Kay's room when her body was found. The same day of Kay's
13 death, Daniel flew to South America.

14 28. Because of these suspicious circumstances surrounding Kay's death, Plaintiff –
15 who, along with Daniel, possessed a durable power of attorney – ordered an autopsy of Kay's
16 body. Daniel, via email from South America, objected to the autopsy. Approximately two weeks
17 passed before the decision to conduct the autopsy could be made. Plaintiff is informed and
18 believes, and thereon alleges, that Daniel intended to delay the autopsy in order to render
19 undetectable the telltale residue of sleeping medication.

20 29. Plaintiff is informed and believes, and thereon alleges, that Kay's estate, Kay's
21 Trust, John's Trust, and the Marital Trust are the rightful owners of all the property and interest
22 Daniel took, secreted, misappropriated, obtained, and/or retained as alleged above.

23 30. Plaintiff first discovered Daniel's above-described pattern and scheme of physical,
24 emotional, and financial abuse of Kay, in connection with and for the purpose of Daniel's
25 misappropriation of Kay's wealth to himself, after approximately 2007 through Plaintiff's review
26 of an accounting of Kay's trust in or about 2007 or 2008 and Plaintiff's review of an accounting
27 of Kay's estate in or about 2007 or 2008.
28

FIRST CAUSE OF ACTION**Elder Financial Abuse (Welf. & Inst. Code, §§ 15600, et seq.)****(By Plaintiff Against All Defendants)**

31. Plaintiff realleges and incorporates by reference paragraphs 1 through 27 as though fully set forth herein.

32. Plaintiff brings this cause of action pursuant to Welfare and Institutions Code sections 15600, et seq., and each and every public policy expressly or impliedly contained therein.

33. At all relevant times, Kay was a dependent elder in that she was over the age of 65 with physical and cognitive limitations that made her especially vulnerable to predation by Daniel. She was in frail physical and mental health, suffering from Alzheimers'-related dementia or symptoms thereof, regularly seeing approximately seven different physicians each month, and taking approximately 11 different medications. She was essentially homebound and often emotionally upset due to her failing health.

34. During the time Daniel resided with Kay at her River Place home, Daniel took advantage of Kay's deteriorating health and emotional state, as well as his position of care and trust, to prevail upon Kay to make gifts and other transfer of money and property to himself, his friends and colleagues, and to entities under his control, including but not limited to a putative charity believed to be operated as Daniel's alter ego for his sole personal benefit.

35. Daniel also took advantage of Kay's deteriorating health and emotional state, as well as his position of care and trust, in prevailing upon Kay to enter into certain "investments" for Daniel's personal benefit, including purchasing real property overseas for Daniel's personal benefit, and making "loans" to Daniel's friends and colleagues, which loans Daniel later prevailed on Kay to "forgive." Daniel also took Kay's emerald ring, which, Plaintiff is informed and believes and thereon alleges, Daniel sold, keeping the proceeds for himself. Plaintiff is also informed and believes, and thereon alleges, that Daniel also frequently used Kay's credit cards and automobile without Kay's knowledge or permission.

1 36. By engaging in this conduct, Daniel took, hid, appropriated, obtained, and/or
2 retained Kay's personal and real property, and assisted in doing so, for a wrongful use and with
3 the purpose to defraud Kay in that Daniel never intended these transfers or "investments" of
4 Kay's wealth to inure to Kay's benefit. Instead, Daniel sought to take advantage of Kay's
5 declining physical and mental condition to enrich himself and his friends and colleagues. As a
6 physician and Kay's son living with her, Daniel exercised a position of emotional, psychological,
7 and physical control over Kay that overwhelmed her ability to make reasonable decisions with
8 respect to the various transfers and "investments" Daniel encouraged Kay to make.

9 37. As described herein, Doe defendants 1 through 100, inclusive, assisted in taking,
10 secreting, misappropriating, obtaining, and retaining Kay's real and personal property for a
11 wrongful use and with the intent to defraud in that Kay was prevented from gaining knowledge of
12 the misuse of her property.

13 38. Plaintiff is informed and believes, and thereon alleges, that Doe 1, the putative
14 charity believed to be operated as Daniel's alter ego for his sole personal benefit, is insolvent and
15 is unable to restore the donations and money and property that Daniel, acting on its behalf,
16 wrongfully obtained from Kay.

17 39. Doe 1 is liable for the acts of Daniel alleged in this complaint as Daniel's alter ego.
18 Recognition of the privilege of separate existence would result in injustice because Daniel in bad
19 faith dominated and controlled Doe 1 as follows:

- 20 a. Daniel commingled funds and other assets of Doe 1 and his funds and other
21 assets for his own convenience and to assist in evading payment of obligations.
22 b. Daniel diverted funds and other assets of Doe 1 to other than corporate uses.
23 c. Daniel treated the assets of Doe 1 as his own.
24 d. Daniel used Doe 1 as a mere shell, instrumentality, or conduit for the purpose
25 of wrongfully soliciting Kay to make gifts, donations, and other transfers of
26 property.

27 40. Kay, as an elderly citizen, was a member of the class of persons designed to be
28 protected by the laws and public policies of the state of California.

44. The above described conduct of Defendants, and each of them, was willful, malicious, and oppressive and was intentionally done to take advantage of Kay's delicate physical and mental condition and as part and parcel of a scheme to wrest control of Kay's wealth all for Defendants' personal benefit. Plaintiff is therefore entitled to an award of punitive damages in an amount sufficient to punish Defendants, and each of them, and to deter such conduct in the future.

(By Plaintiff Against Daniel Susott)

47. On or about February 2, 2009, Daniel took possession of Kay's emerald ring by entering the Sunrise facility in the middle of the night at approximately 3:30 a.m., entering Kay's room while Kay was sleeping, and slipping the ring off her finger while being careful not to wake

1 her. Plaintiff demanded Daniel return the ring to Kay, but Daniel refused. Plaintiff is informed
2 and believes, and thereon alleges, that Daniel sold the ring and kept the proceeds for himself.

3 48. Daniel's actions constitute converting the property of Kay and her estate to
4 Daniel's use without just compensation to Kay.

5 49. The above described actions by Daniel were taken without Kay's knowledge or
6 consent.

7 50. Kay's estate remains the rightful owner of all assets converted by Daniel or his
8 agents.

9 51. As a direct result of Daniel's wrongful conduct, Plaintiff has suffered damages in
10 an amount within the jurisdictional limits of this Court, to be proven at trial.

11 52. Between the time of Defendants' conversion and the filing of this action, Plaintiff
12 has incurred attorneys' fees and costs in an amount to be proven at trial in connection with
13 preparing for litigation of this case for the return of Kay's property to her estate.

14 53. In committing the acts described in this complaint, Daniel is guilty of oppression,
15 fraud, or malice in depriving his frail, ailing mother of her dear, personal property for his own
16 benefit. As a result, Plaintiff is entitled to an award of exemplary or punitive damages.

17 18 **THIRD CAUSE OF ACTION**

19 **Constructive Trust**

20 **(By Plaintiff Against All Defendants)**

21 54. Plaintiff realleges and incorporates by reference paragraphs 1 through 53 as though
22 fully set forth herein.

23 55. Plaintiff is informed and believes, and thereon alleges, that Defendants have
24 converted a large amount of Kay's savings, investments, property, and other assets for their own
25 use, and that Defendants or their agents are presently in possession of such funds and property.
26 Because of her diminished physical and mental capacity, and further because of Daniel's undue
27 influence exerted upon her, Kay had no knowledge of this conversion and did not give legal
28 consent to Defendants to acquire, obtain, or transfer her funds and property.

1 56. Plaintiff is informed and believes, and thereon alleges, that Defendants or their
2 agents are presently in possession of the converted funds and property described above.

3 57. By virtue of Defendants' conversion of Kay's property, Defendants have denied
4 Kay rightful ownership of this property, and therefore Defendants hold all converted property as a
5 constructive trust for the benefit of Kay's estate.

6
7 **FOURTH CAUSE OF ACTION**

8 **Neglect (Welf. & Inst. Code, § 15610.57)**

9 **(By Plaintiff Against Daniel Susott)**

10 58. Plaintiff realleges and incorporates by reference paragraphs 1 through 53 as though
11 fully set forth herein.

12 59. During the time Daniel lived with Kay from about 1998 to 2009, Kay was under
13 the custody and care of Daniel, a medical doctor and Kay's son whom Kay relied upon to look
14 out for her medical welfare.

15 60. As described above, during this time, Kay suffered from various physical and
16 mental limitations, including Alzheimers'-related dementia.

17 61. By, among other things, ordering Kay's personal caregivers to tend to Daniel's
18 personal needs, throwing raucous parties at Kay's home during, at which guests engaged in lewd
19 public sex acts, paraded around naked, and abused illegal drugs, and generally failing to act in the
20 best interests of Kay's physical and mental welfare, Daniel failed to use the degree of care that a
21 reasonable person in the same situation would have used in providing medical care for Kay's
22 physical and mental health needs, protecting Kay from health and safety hazards, and maintaining
23 a restful and healthy environment in Kay's own home.

24 62. Daniel's conduct was reckless in that his neglect could have resulted in more
25 serious medical problems that, in a woman of Kay's age and infirmities, could have resulted in
26 death or other serious health consequences.

27 63. Plaintiff is informed and believes, and thereon alleges, that Kay was unable to care
28 for or make informed medical decisions for herself as a result of her physical and mental

1 limitations, and thus Daniel was obligated, as the person in whose care and control Kay was in, to
 2 ensure that her medical needs were met. Plaintiff is informed and believes, and thereon alleges,
 3 that Daniel failed this duty and thus committed neglect as that term is defined in Welfare and
 4 Institutions Code section 15610.57.

5 64. Plaintiff is further informed and believes, and thereon alleges, that Daniel's
 6 conduct was reckless and malicious in that he knew of Kay's fragile medical condition, yet failed
 7 to provide her with adequate medical care and treatment, and interfered with Kay's personal
 8 caregivers' ability to provide Kay with adequate medical care and treatment.

9 65. Daniel's conduct was a substantial factor in causing Kay pain and suffering, as
 10 well as economic and statutory damages and attorneys' fees in an amount to be proven at trial.

11 66. In committing the acts described in this complaint, Daniel is guilty of oppression,
 12 fraud, or malice in depriving his frail, ailing mother of the care she obviously required. As a
 13 result, Plaintiff is entitled to an award of exemplary or punitive damages.

14 **FIFTH CAUSE OF ACTION**

15 **Physical Abuse (Welf. & Ins. Code, § 15610.63)**

16 **(By Plaintiff Against Daniel Susott)**

17 67. Plaintiff realleges and incorporates by reference paragraphs 1 through 53 and 58
 18 through 66 as though fully set forth herein.

19 68. Daniel physically abused Kay by, among other things, forcibly yanking Kay by her
 20 arm, giving her excessive and unnecessary enemas, and causing her to take sleeping pills.

21 69. Daniel's conduct was a substantial factor in causing harm to Kay, in that Kay
 22 complained about receiving the frequent enemas, and that, Plaintiff is informed and believes and
 23 thereon alleges, the unauthorized sleeping pills Daniel caused Kay to take on or about
 24 February 15, 2009 resulted in her death the same day.

25 70. In engaging in this conduct, Daniel acted with recklessness, oppression, fraud, and
 26 malice, in that he was aware of Kay's frail physical condition, was aware there was no rational
 27 justification for giving Kay daily enemas, and was aware of Sunrise's ban on sleeping pills.
 28

SIXTH CAUSE OF ACTION

Wrongful Death

(By Plaintiff Against Daniel Susott)

72. Plaintiff realleges and incorporates by reference paragraphs 1 through 53 and 58 through 71 as though fully set forth herein.

73. The day prior to Kay's death, her physician, Dr. Tocchet, declared her to be in good health. Daniel's conduct in causing Kay to take unauthorized sleeping pills thus proximately resulted in Kay's premature death.

74. As a result of Kay's premature death caused by Daniel, Plaintiff is deprived of Kay's love, companionship, comfort, care, assistance, protection, affection, society, and moral support.

75. In committing the acts described in this complaint, Daniel is guilty of oppression, fraud, or malice in causing his frail, ailing, elderly mother to take sleeping pills, which were prohibited by the care facility in which she was admitted at the time. As a result, Plaintiff is entitled to an award of exemplary or punitive damages.

PRAYER

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, herein as follows:

As to the First Cause of Action:

1. For compensatory damages according to proof at trial;
2. For punitive damages;
3. For reasonable attorneys' fees pursuant to Welfare and Institutions Code section 15657.5;

As to the Second Cause of Action:

4. For compensatory damages according to proof at trial;
5. For punitive damages;

As to the Third Cause of Action:

6. For a constructive trust;

As to the Fourth and Fifth Causes of Action:

7. For compensatory damages according to proof at trial;
8. For punitive damages;
9. For reasonable attorneys' fees pursuant to Welfare and Institutions Code

section 15657;

As to the Sixth Cause of Action:

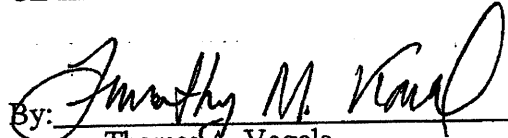
10. For compensatory damages according to proof at trial;
11. For punitive damages;

As to All Causes of Action:

12. For an award of costs of suit incurred herein; and
13. For an award of such other and further relief as the Court deems just and proper.

DATED: December 9, 2011

GIMINO VOGELE ASSOCIATES, LLP

By: 

Thomas A. Vogeles
Timothy M. Kowal

Attorneys for Plaintiff JOHN L. SUSOTT; the
Estate of Kathryn Susott; The Kathryn C. Susott
Living Trust under Agreement dated May 2, 1997;
The John L. Susott Exempt Marital Trust under
Agreement dated May 27, 1985; and The John L.
Susott Non-Exempt Marital Trust under
Agreement dated May 27, 1985

Exhibit B

CM-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Thomas A. Voegel, Esq. (SBN 254557) SCHWARTZ, O'CONNOR & VOGEL 200 Clock Tower Place, Suite E-103 Carmel, California 93923 TELEPHONE NO.: (831) 625-6255 FAX NO. (Optional): E-MAIL ADDRESS (Optional): tvogele@sovlaw.com ATTORNEY FOR (Name): Plaintiff John Susott	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Monterey STREET ADDRESS 1200 Aguajito Road MAILING ADDRESS: CITY AND ZIP CODE: Monterey, CA 93940 BRANCH NAME: Monterey Courthouse	
PLAINTIFF/PETITIONER: John L. Susott, et al. DEFENDANT/RESPONDENT: Daniel C. Susott	
NOTICE OF RELATED CASE	CASE NUMBER M115348
	JUDICIAL OFFICER Hon. Lydia M. Villarreal
	DEPT.: 15

Identify, in chronological order according to date of filing, all cases related to the case referenced above.

1. a. Title: In re: ILIT of Susott, John L. and Kathryn C. Susott
 b. Case number: MP20193
 c. Court: ☒ same as above
☐ other state or federal court (name and address):
 d. Department: 16
 e. Case type: ☐ limited civil ☐ unlimited civil ☒ probate ☐ family law ☐ other (specify):
 f. Filing date: 1/26/2011
 g. Has this case been designated or determined as "complex?" ☐ Yes ☒ No
 h. Relationship of this case to the case referenced above (check all that apply):
☒ involves the same parties and is based on the same or similar claims
☒ arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact
☒ involves claims against, title to, possession of, or damages to the same property
☒ is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
☐ Additional explanation is attached in attachment 1h
 i. Status of case:
☒ pending
☐ dismissed ☐ with ☐ without prejudice
☐ disposed of by judgment
2. a. Title:
 b. Case number:
 c. Court: ☐ same as above
☐ other state or federal court (name and address):
 d. Department:

CM-015

PLAINTIFF/PETITIONER: John L. Susott, et al.	CASE NUMBER:
DEFENDANT/RESPONDENT: Daniel C. Susott	M115348

2. (continued)

- e. Case type: ☐ limited civil ☐ unlimited civil ☐ probate ☐ family law ☐ other (specify):
- f. Filing date:
- g. Has this case been designated or determined as "complex?" ☐ Yes ☐ No
- h. Relationship of this case to the case referenced above (check all that apply):
- ☐ involves the same parties and is based on the same or similar claims.
- ☐ arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
- ☐ involves claims against, title to, possession of, or damages to the same property.
- ☐ is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
- ☐ Additional explanation is attached in attachment 2h
- i. Status of case:
- ☐ pending
- ☐ dismissed ☐ with ☐ without prejudice
- ☐ disposed of by judgment

3. a. Title:

b. Case number:

c. Court: ☐ same as above☐ other state or federal court (name and address):

d. Department:

e. Case type: ☐ limited civil ☐ unlimited civil ☐ probate ☐ family law ☐ other (specify):

f. Filing date:

g. Has this case been designated or determined as "complex?" ☐ Yes ☐ No

h. Relationship of this case to the case referenced above (check all that apply):

- ☐ involves the same parties and is based on the same or similar claims.
- ☐ arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
- ☐ involves claims against, title to, possession of, or damages to the same property.
- ☐ is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
- ☐ Additional explanation is attached in attachment 3h

i. Status of case:


- ☐ pending
- ☐ dismissed ☐ with ☐ without prejudice
- ☐ disposed of by judgment

4. ☐ Additional related cases are described in Attachment 4. Number of pages attached: _____

Date. 1/24/2012

Thomas A. Vogele

(TYPE OR PRINT NAME OF PARTY OR ATTORNEY)



(SIGNATURE OF PARTY OR ATTORNEY)

CM-015

PLAINTIFF/PETITIONER: John L. Susott, et al.	CASE NUMBER:
DEFENDANT/RESPONDENT: Daniel C. Susott	M115348

**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF RELATED CASE**

(NOTE: You cannot serve the Notice of Related Case if you are a party in the action. The person who served the notice must complete this proof of service. The notice must be served on all known parties in each related action or proceeding.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify)*:
245 Fischer Avenue, Suite C-1, Costa Mesa, CA 92626

2. I served a copy of the *Notice of Related Case* by enclosing it in a sealed envelope with first-class postage fully prepaid and *(check one)*:

a. ☐ deposited the sealed envelope with the United States Postal Service.

b. ☒ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Related Case* was mailed:

a. on *(date)*: 1/24/2012

b. from *(city and state)*: Costa Mesa, CA

4. The envelope was addressed and mailed as follows:

a. Name of person served:
Thomas J. Espinoza, Esq.
Street address: 444 Pearl Street, Suite A-6
City: Monterey
State and zip code: CA 93940

c. Name of person served:
James R. Stupar, Esp.
Street address: 2100 Garden Road
City: Monterey
State and zip code: CA 93940

b. Name of person served:
Eric David Schenk, Esq.
Street address: 707 Miller Ave
City: Mill Valley
State and zip code: CA 94941

d. Name of person served:
John Samuel Preston, Esq.
Street address: 1060 Clarendon Cres
City: Oakland
State and zip code: CA 94610

☐ Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date 1/24/2012

Angela M Brown

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

C12-00581

JURY TRIAL DEMANDED

John Preston
Attorney for defendant Daniel Susott

JS 44-CAND (Rev. 12/11)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff **MONTEREY, CAL**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Thomas Vogels, 200 Clock Tower Place, Suite E - 103
Carmel Cal. 93923 tel 831 625 6255

DEFENDANTS

County of Residence of First Listed Defendant **HONOLULU, HAWAII**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)
John Preston, 1060 Clarendon Cr., Oakland, Cal 94610
tel 510 763 9131

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff, and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 625 Drug Reinstatement of Property 21 USC §81	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander		PROPERTY RIGHTS	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	LABOR	SOCIAL SECURITY	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 790 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (13950)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 500 Securities/Commodities Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
		<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental Matters
REAL PROPERTY	CIVIL RIGHTS	IMMIGRATION	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 871 IRS Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 465 Habeas Corpus - Alien Detainee (Prisoner Petition)		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations			
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment			
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			
	<input type="checkbox"/> 448 Education			
	PRISONER PETITIONS			
	<input type="checkbox"/> 510 Motions to Vacate Sentence			
	Habeas Corpus:			
	<input type="checkbox"/> 520 General			
	<input type="checkbox"/> 535 Death Penalty			
	<input type="checkbox"/> 540 Mandamus & Other			
	<input type="checkbox"/> 550 Civil Rights			
	<input type="checkbox"/> 555 Prison Condition			
	<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

- (Place an "X" in One Box Only)
- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (28 USC 1412) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC § 1441(b)

Brief description of cause:
elder abuse, fraud conversion, wrongful death

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$**

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE Case # MP2019 (Cal)

DOCKET NUMBER Not yet determined

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)

☐ SAN FRANCISCO/OAKLAND ☒ SAN JOSE ☐ EUREKA

DATE

2/2/12

SIGNATURE OF ATTORNEY OF RECORD

